

In the Matter of)
)
Petition for Rulemaking or, Alternatively, a)
Waiver of the Closed Bidding Rules for C) RM – 11019
Block Licenses in the Broadband Personal)
Communications Services)

Ericsson Inc. (“Ericsson”) by its attorneys, submits these Reply Comments concerning the Petition filed by CTIA – The Wireless Association (“CTIA”) for Expedited Rulemaking or, Alternatively, a Waiver (“Petition”). CTIA seeks elimination of the Commission’s eligibility restrictions on broadband Personal Communications Services (“PCS”) licenses scheduled to be included in Auction No. 58.¹

³ T-Mobile Comments at 4-6.

would promote new competitive entry. Among these changes, it adopted Designated Entity “set-aside” rules (“DEs”) that only permitted small businesses to acquire and hold C and F block licenses.⁴

As T-Mobile recounts, however, the Commission’s pro-competitive goals have been realized in a much different manner than it expected.⁵ In 2000, the Commission eliminated certain eligibility restrictions that it originally adopted for C block PCS licenses, finding that circumstances had changed dramatically in the PCS industry since 1994.⁶ In particular, the introduction of wireless Internet, advanced data, and 3G services had created a shortage of suitable available spectrum. Many carriers were concerned that they needed to obtain additional spectrum to provide these services or satisfy other capacity needs crucial to their business plans.⁷ Consequently, the Commission balanced competing interests by enabling larger or regional carriers to obtain more of the critically-needed C block spectrum to “fill out” their regional or national service areas.⁸ Ericsson agrees that the Commission should move forward now to eliminate all DE restrictions for C Block PCS licenses.

At the same time, the Commission should adopt other measures that further its goals of promoting small business participation and network build-outs in rural areas. For example, Ericsson supports the Rural Cellular Association’s position that the Commission should make bidding credits available for the licenses offered in Auction 58.⁹ In this manner, the Commission

⁴ *Fifth Report and Order, In the Matter of Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, 9 FCC Rcd. 5532, 5580 ¶ 113 (1994).

⁵ T-Mobile Comments at 6-8.

⁶ *Sixth Report and Order on Reconsideration, In the Matter of Amendment of the Commission’s Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees*, 15 FCC Rcd. 16,266, 16,277 ¶ 23 (2000) (modifying DE set-aside rules for C and F block licenses).

⁷ *Id.*

⁸ *Id.*

⁹ Comments of Rural Cellular Association, *In the Matter of Petition for Rulemaking or, Alternatively, a Waiver of the Closed Bidding Rules for C Block Licenses in the Broadband Personal Communications Services*, RM-11019 (fil. Jul. 29, 2004) at 3-4.

will provide a more effective means for small businesses to compete successfully and obtain licenses. The Commission's Secondary Markets' leasing provisions will also aid small businesses in gaining spectrum to provide services.¹⁰

For these reasons, Ericsson urges the Commission to initiate a rulemaking eliminating DE set-asides on an expedited basis. As Motorola notes, the Commission has successfully initiated and completed rulemakings regarding bidding eligibility restrictions within six months.¹¹ It can make these needed reforms that will effectively promote competition, without unduly impacting its schedule for conducting Auction 58.

Respectfully submitted this 9th day of August, 2004.

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¹⁰ Additionally, Ericsson has recommended other means for promoting more competitive, cost-efficient service in rural areas. For example, in its Reply Comments in the "2002 Biennial Review" proceeding, Ericsson urged the Commission to increase (or eliminate) transmitter output limits and increase base station Equivalent Isotropically Radiated Power ("EIRP") limits to improve service and coverage cost-effectively in rural areas. Reply Comments of Ericsson Inc, *In the Matter of Biennial Regulatory Review – Amendment of Parts 1,22,24,27 and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services*, WT Docket No. 03-264 (fil. May 24, 2004), pp. 3-4. See also Reply Comments of Ericsson Inc, *In the Matter of Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, WT Docket No. 02-381 *et al* (fil. January 26, 2004) pp. 2-6 (advocating adoption of increased power limits and greater infrastructure sharing to promote spectrum-based services to rural areas.) These measures will further the Commission's competitive goals of promoting network build-out in rural areas.

¹¹ Comments of Motorola, Inc., *In the Matter of Petition for Rulemaking or, Alternatively, a Waiver of the Closed Bidding Rules for C Block Licenses in the Broadband Personal Communications Services*, RM-11019 (fil. Jul. 30, 2004) at 3.